

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION

No. 2:07-CR-00017-F-1

No. 2:11-CV-00069-F

JAMES EARL WALTON,)	
Petitioner,)	
)	
v.)	<u>ORDER</u>
)	
UNITED STATES OF AMERICA,)	
Respondent.)	

Before the court is James Earl Walton's Motion for Leave to "Relation Back" [DE-58]. In his motion, Walton is seeking to amend his § 2255 motion.

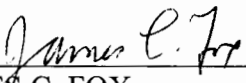
The amendment of § 2255 pleadings is governed by Rule 15 of the Federal Rules of Civil Procedure. *See United States v. Pittman*, 209 F.3d 314, 317 (4th Cir. 2000) (noting that although the Rules Governing Section 2255 do not address the procedure for amending motions, courts have typically applied Federal Rule of Civil Procedure 15). The Fourth Circuit has held that "the standards used by a district court in ruling on a motion to amend or on a motion to supplement are nearly identical." *Franks v. Ross*, 313 F.3d 184, 198 n.15 (4th Cir. 2002). "In either situation, leave should be freely granted, and should be denied only where 'good reason exists ... , such as prejudice to the defendants.'" *Id.* (quoting *Walker v. United Parcel Serv.*, 240 F.3d 1268, 1278 (10th Cir. 2001) (internal quotation and citation omitted)). Leave to amend should also be denied when the amendment would be futile. *Edwards v. City of Goldsboro*, 178 F.3d 231, 242 (4th Cir. 1999).

A review of the record reveals that Walton's § 2255 motion [DE-36] was dismissed in an order [DE-49] entered on March 28, 2013, and Walton has no other pending § 2255 motions

before this court. Accordingly, Walton's Motion for Leave to "Relation Back" [DE-58] is DENIED.

SO ORDERED.

This, the 16th day of July, 2014.



JAMES C. FOX
Senior United States District Judge